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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MOISES LOPEZ-GUTIERREZ,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-75836

Agency No. A77-833-656

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 22, 2008^{**}

Before: GRABER, FISHER, and BERZON, Circuit Judges.

Moises Lopez-Gutierrez, a native and citizen of Mexico, petitions for review of an order of the Board of Immigration Appeals (“BIA”) denying his motion to reopen removal proceedings due to ineffective assistance of counsel. We have

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction pursuant to 8 U.S.C. § 1252. Reviewing de novo, *Mohammed v. Gonzales*, 400 F.3d 785, 791-92 (9th Cir. 2005), we grant the petition for review and remand for further proceedings.

Our recent decisions in *United States v. Vidal*, 504 F.3d 1072, 1086 (9th Cir. 2007) (en banc), and *Navarro-Lopez v. Gonzales*, 503 F.3d 1063, 1073 (9th Cir. 2007) (en banc), held respectively that accessories after the fact are covered by Cal. Vehicle Code § 10851(a), and that accessory-after-the-fact liability is not necessarily morally turpitudinous. Because “[w]e have before us a record of conviction that is inconclusive” as to the factual predicate for Lopez-Gutierrez’s conviction, see *Sandoval-Lua v. Gonzales*, 499 F.3d 1121, 1132 (9th Cir. 2007), he has established prejudice from prior counsel’s failure to contend that his conviction was not a crime involving moral turpitude. See *Mohammed*, 400 F.3d at 794 (a petitioner “must demonstrate only that she has *plausible* grounds for relief” to establish prejudice from ineffective assistance). We therefore remand with directions that the BIA reopen Lopez-Gutierrez’s proceedings. See *Singh v. Ashcroft*, 367 F.3d 1182, 1190 (9th Cir. 2004).

We deny the Attorney General’s request to strike part of the opening brief.

PETITION FOR REVIEW GRANTED; REMANDED.